

Docket No. 29997/010A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of Waldean A.
SCHULZ ET AL.

) Title: OPTICAL FIBER PROBE FOR
) POSITION MEASUREMENT

Reissue Application of Patent No.
5,907,395

)
)
) Applications Branch
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)
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Filed: June 6, 1997

REISSUE DECLARATION AND POWER OF ATTORNEY

Commissioner for Patents
Washington, D.C. 20231

Sir:

We, the undersigned inventors and assignee of the above-identified patent, hereby declare that:

Our residences, post offices and citizenships are as stated below next to our respective names,

We, the named inventors, believe we are the original, first and joint inventors of the subject matter claimed and for which a reissue patent is sought on the invention as entitled above the specification, drawing and claims of which are attached hereto, and the undersigned assignee believes that these named inventors are the first and joint inventors of the subject matter claimed.

We hereby state that we have reviewed and understand the contents of the above identified specification, including the claims.

We acknowledge the duty to disclose information which is known to us to be material to patentability in accordance with Title 37, Code of Federal Regulations, Section 1.56.

We hereby assert that this application to reissue the above identified patent has been filed in order to correct a defect in that patent in that it is partially inoperative in that it claims less than the inventors had the right to claim. Reference is made to new claims 49-67 added to this patent by this reissue application as evidence of the newly claimed material that could have been claimed by us in the original patent, and now is being claimed by us. We further assert that this application to reissue has been filed in order to correct an error in the manner in which the angle of the radiation beam is characterized; degrees not being the conventional, preferred manner of referring to a solid angle. Reference is made to amended claims in this regard.

Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant. They were discovered as a consequence of this patent being routinely reviewed by one of the inventors.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent reissued thereon.

POWER OF ATTORNEY: I hereby appoint as my attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

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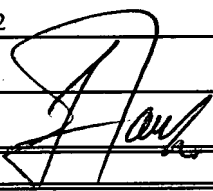
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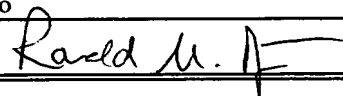
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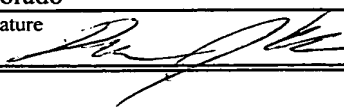
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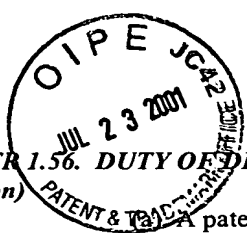
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**37 CFR 1.56. DUTY OF DISCLOSURE - INFORMATION MATERIAL TO PATENTABILITY (Applicable Portion)**

A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentability defines, to make sure that any material information contained therein is disclosed to the Office.

Information relating to the following factual situations enumerated in 35 USC 102 and 103 may be considered material under 37 CFR 1.56(a).

35 U.S.C. 102. CONDITIONS FOR PATENTABILITY: NOVELTY AND LOSS OF RIGHT TO PATENT

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraph (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

35 U.S.C. 103. CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER (Applicable Portion)

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

35 U.S.C. 112. SPECIFICATION (Applicable Portion)

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.